

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WARREN S. McCLINTON,

Petitioner,

vs.

DOUG GILLESPIE, *et al.*,

Respondents.

2:14-cv-00558-APG-VCF

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner.

When initiating a federal habeas corpus action, a petitioner must either submit the \$5.00 filing fee for habeas petitions or an application to proceed *in forma pauperis*. See 28 U.S.C. § 1914(a); 28 U.S.C. § 1915. In this case, petitioner failed to submit either a filing fee or an application to proceed *in forma pauperis* with the petition.

Additionally, the petition was not submitted on the Court's approved form. The Local Rules of Court require petitioners appearing in *pro se* to file their petitions on the Court's approved form. Local Rules of Special Proceedings 3-1 ("a petition for a writ of *habeas corpus*, filed by a person who is not represented by an attorney, shall be on the form provided by this court."). The Clerk of

1 Court will provide plaintiff with the approved form for filing a *pro se* petition for a writ of habeas
2 corpus. Petitioner may file a new petition on the proper form by initiating a new action.

3 Due to the lack of an *in forma pauperis* application or filing fee, the present action will be
4 dismissed without prejudice to the filing of a new petition (using the court-approved form) in a new
5 action with a pauper application containing all required attachments. It does not appear from the
6 papers presented that a dismissal without prejudice would result in a promptly-filed new petition
7 being untimely. In this regard, plaintiff at all times remains responsible for calculating the running
8 of the limitations period as applied to his case and properly commencing a timely-filed habeas
9 corpus action.

10 **IT THEREFORE IS ORDERED** that this action is **DISMISSED** without prejudice to the
11 filing of **a new petition in a new action**.

12 **IT IS FURTHER ORDERED** that the Clerk of the Court shall send petitioner two copies of
13 an *in forma pauperis* application form for a prisoner, one copy of the instructions for the same, two
14 copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of instructions for the same.

15 **IT IS FURTHER ORDERED** that petitioner may file a new petition in a new action, but he
16 may not file further documents in this action.

17 **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly.

18 Dated this 16th day of April, 2014.

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21 _____
22 UNITED STATES DISTRICT JUDGE
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